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Practitioner's Docket No. MPI98-067CP2CN1AM

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Lehar, Sophie, et al.
Application No.: 09/989,545 Group No.: 1644
Filed: November 20, 2001 Examiner: Ouspenski, Ilia I.
For: NOVEL TH2-SPECIFIC MOLECULES AND USES THEREOF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Species Election Requirement mailed August 6, 2004, Applicants hereby elect Species 3A, directed to human ICOS (SEQ ID NO:12).

Applicants further elect Species 4A, directed to a Th2 dependent inflammation response. This election is made with traverse. Applicants respectfully submit each of the Species set forth in requirement 4 are not clearly distinct species. Applicants submit aspects of each of species set forth in (A), (B), (C), (D), (E), (F), and (G) are not necessarily distinct and certainly overlap and coincide in certain instances. For example, as disclosed in the specification, activation of the Species set forth as (E) is believed to result in activation of Species (A) as well as Species (G). Applicants further submit a search of the art relating to ICOS activity for Th2 response would result in any or all of the named

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) and 1.10*

I hereby certify that, on the date shown below, this correspondence is being:

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Signature

Date: 7 September 2004Diana Gentile

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species, and such a search would not be an undue burden. Withdrawal and/or clarification of the election is respectfully requested.

Applicants further elect Species 5A with traverse. Applicants submit the search of the scientific literature relating to ICOS mediated Th2 specific cytokine production would result in any of the cytokines named in the present requirement. Thus, such a search would not be an undue burden. Still further, a search of species (E) would require the individual searches of (A)-(D) as asserted by the Examiner. Withdrawal of the requirement is thus respectfully requested.

The elections made herein are made without prejudice to Applicant's rights to pursue the non-elected subject matter in this or other applications in the event a generic claim is not found allowable. Further, Applicants hereby specifically reserve the right to traverse the above election with respect to non-elected subject matter in this or subsequent applications.

This paper is being filed timely and no extensions of time are required. In the event any extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

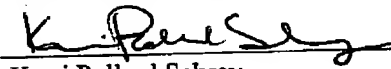
Entry of the remarks made herein is respectfully requested.

7 September 2004

Respectfully submitted,

MILLENNIUM PHARMACEUTICALS, INC.

By


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